

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 5, 2003

Agenda ID #3059

TO: PARTIES OF RECORD IN APPLICATION 02-10-029

This is the draft decision of Administrative Law Judge (ALJ) Vieth. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:tcg

Attachment

Decision **DRAFT DECISION OF ALJ VIETH** (Mailed 12/5/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for Authority to Lease Communication Facility Sites and Antenna Equipment Locations to Los Angeles SMSA Limited Partnership, Oxnard-Ventura-Simi Limited Partnership and GTE Mobilnet of Santa Barbara Limited Partnership, individually and collectively doing business as Verizon Wireless.

Application 02-10-029
(Filed October 18, 2002)

OPINION APPROVING LEASE AGREEMENTS**A. Summary**

In this unopposed application, Southern California Edison Company (Edison) asks the Commission to approve under Pub. Util. Code § 851¹ two master agreements and associated standard agreements, and ten stand-alone agreements, by which Edison proposes to lease either excess space at communication facility sites or locations for the attachment of antennas or antenna equipment to Los Angeles SMSA Limited Partnership, Oxnard-Ventura-Simi Limited Partnership and GTE Mobilnet of Santa Barbara Limited Partnership, individually and collectively doing business as Verizon Wireless (Verizon Wireless). The two master agreements, and the amendments to them,

¹ All statutory references are to the Public Utilities Code unless otherwise noted.

set forth a framework for these licenses/leases. Consistent with this framework, the specific sites or attachments are identified in the standard agreements associated with the master agreements. Edison executed the ten stand-alone agreements before the master agreements had been negotiated.

We approve the application, authorizing 25 specific, proposed leases and approving Edison's request to use the master agreements and associated standard agreements for future leases to Verizon Wireless of communications facility sites and antenna equipment locations. However, before it makes any substantive amendments to the master agreements, associated standard agreements, or the amendments to the master agreements in the future, we require Edison to file an application to obtain our approval under § 851. Finally, consistent with precedent, we resolve Edison's motion to file certain confidential terms in the agreements under seal.

B. Background

Edison is public utility and holds certificates of public convenience and necessity to provide both electric and telecommunications services in California. Verizon Wireless is a wireless communications carrier doing business in California and other states.

This application proposes to convert from licenses to leases, Edison's arrangements to permit Verizon Wireless to use existing communication facility sites and to use land or other property for antenna or antenna equipment attachments. Communication facility sites are parcels of land that can be used for the installation of monopoles, antennas and base transceiver systems. Attachment locations are Edison facilities such as towers, poles, buildings and other structures to which mobile telephone antennas can be attached.

Edison states it “will not lease any site or attachment unless its use by Verizon Wireless is compatible with current electric utility purposes. Nor will [Edison] lease any site or attachment that it expects to need for electric utility purposes during the term of the lease.” (Application, p. 3.)

C. The Agreements

Edison has included copies of the agreements at issue as Exhibits 1 through 13 to the application. A list of the agreements is appended to today’s decision as Attachment A. Each of the ten Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1 to it, and the Standard Site Agreement (which is an exhibit to the Master Site Agreement²) memorialize the terms and condition governing the licenses and the proposed leases of communication facility sites. The Master Attachment Agreement, Amendment No. 1 and Amendment No. 2 to the Master Attachment Agreement, and the Standard Agreement (which is an exhibit to the Master Attachment Agreement³) memorialize the terms and condition governing the licenses and the proposed leases of antenna and antenna equipment locations.

1. The Communication Facility Site Agreements

The ten Stand-Alone Site Agreements took effect between September 1995 and November 2000 and thus predate execution of the Master Site Agreement.

² This Standard Agreement, Exhibit B to the Master Site Agreement, is entitled “Standard Agreement for Development of a Site Between Southern California Edison Company and Los Angeles SMSA Limited Partnership, DBA Verizon Wireless.

³ This Standard Agreement, Exhibit F to the Master Attachment Agreement, is entitled “Standard Agreement No. __, Southern California Edison Company and Los Angeles SMSA Limited Partnership, Personal Communication Services & Cellular Antenna Equipment Location License/Lease Agreement.”

Edison states that the Stand-Alone Agreements were negotiated and executed because Verizon Wireless initially did not expect to make use of enough sites to warrant the execution of a master agreement. Subsequently, Edison and Verizon Wireless chose to enter into the Master Site Agreement and Amendment No. 1, and they have executed three site license/lease arrangements under the master agreement/standard agreement framework. Edison states the parties will execute all future site agreements using this framework.

The Stand-Alone Site Agreements are similar in all material respects. They give Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless a revocable license in certain Edison communication facility sites, consistent with General Order (GO) 69-C.⁴ Verizon Wireless is responsible for obtaining all certificates, permits and other approvals required by federal, state or local authorities. Upon conversion of the licenses to leases, Edison will continue to reserve the right to use the property for the purposes necessary to its electric utility business. Each license/lease will run for the term specified in the Stand-Alone Site Agreement. Annual rent adjustments will be calculated every five years throughout the term of the lease based on the change in the Consumer Price Index during the prior five-year period. Verizon Wireless will also pay any increases in property taxes levied because of its improvements to the property.

The Master Site Agreement, executed by Edison and Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless, took effect on November 20, 2001. Edison and Verizon Wireless entered into Amendment No. 1 to the Master Site

⁴ GO 69-C authorizes public utilities subject to § 851 to grant revocable licenses for limited uses of their property, without further authorization of the Commission, as long as the licensed use does not interfere with the provision of utility service.

Agreement on October 1, 2002 to add the Oxnard-Ventura-Simi Limited Partnership and GTE Mobilnet of Santa Barbara Limited Partnership as parties and permit Verizon Wireless to license Edison sites in Ventura, Santa Barbara, and San Luis Obispo Counties.

The Master Site Agreement and Amendment No. 1 include most of the terms and conditions present in the stand-alone site agreements, such as pricing, duration, necessity for obtaining government approvals, etc. These agreements set up a framework and process for Verizon Wireless to license communications facility sites from Edison and for the subsequent conversion of such licenses to leases.

The process requires Verizon Wireless to forward a completed Site Application to Edison, which Edison must then accept or reject. After acceptance, Verizon Wireless does not acquire a license until the parties have executed a Standard Agreement for the specific site. Among other things, the Master Site Agreement requires Verizon Wireless to obtain all third-party property rights necessary for access to the site or for installation and operation of its communications equipment, as well as all governmental approvals necessary for the installation. Edison retains the right to use the property for the provision of utility services, and Verizon Wireless agrees to pay any increases in taxes attributable to the improvements.

The associated Standard Agreement is the vehicle for licensing a specific communications facility site and, consistent with GO 69-C, provides that the license will only convert to a lease if the Commission approves the conversion. Upon execution of the Standard Agreement, Verizon Wireless obtains the right to use the site for a specific term of years, with certain renewal terms, and must pay an annual rent, which will be adjusted for inflation based upon the Consumer

Price Index. If there is any conflict between the Master Site Agreement and the Standard Agreement, the Master Site Agreement prevails.

Edison and Verizon Wireless have entered into three Standard Agreements under the Master Site Agreement. On the date of the filing of this application, the land use approval process had not been completed for two of the sites but was complete for the following one:

| First Master Site Agreement & Standard Agreement | |
|--|---------------------------------|
| Site ID | Site Location |
| Merced | West Covina – Merced Substation |

2. The Antenna Equipment Location Attachment Agreements

The Master Attachment Agreement, executed by Edison and Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless, took effect on May 18, 1999. The Master Attachment Agreement provides the key terms and conditions governing arrangements between the parties negotiated under that master agreement and its associated Standard Agreement. Amendment No. 1 to the Master Attachment Agreement, effective September 10, 2001 (which revised the Standard Agreement), and Amendment No. 2, effective October 1, 2002, govern subsequent arrangements.

The initial Master Attachment Agreement and Standard Agreement framework requires Verizon Wireless to forward a completed Tower Location Application to Edison, which Edison must then accept or reject. Following acceptance, the parties must execute a Standard Agreement for the specific site, which creates a license consistent with GO 69-C. Verizon Wireless must obtain all certificates, permits and other approvals required by federal, state or local

authorities. Edison agrees to apply, at the expense of Verizon Wireless, for Commission approval to convert the license to a lease.

Under these attachment agreements, the license/lease will run for the term specified in the Standard Agreement, which includes options to renew for additional terms. Verizon Wireless must pay an annual rent, which will be adjusted upward throughout the term, based upon the change in the Consumer Price Index. If there is any conflict between the Master Attachment Agreement and the Standard Agreement, the Master Attachment Agreement prevails.

Amendment No. 1 to the Master Attachment Agreement revises and clarifies the license/lease framework. Among other things, it allows Verizon Wireless to attach antennas and antenna equipment to Edison facilities, which are not located on Edison property. It also formalizes each party's respective obligations for obtaining and maintaining governmental approvals and for obtaining property access rights from third parties, and it revises the Standard Agreement to include provisions governing use of Edison facilities on property owned by third parties. The revised framework provides that until the parties execute a Standard Agreement for the specific site, which creates a license consistent with GO 69-C, Edison has no obligation to reserve the site for use by Verizon Wireless. Also, Verizon Wireless is in material breach of the Standard Agreement for a specific location if it commences construction to attach its wireless equipment, or begins operation, without having obtained all governmental approvals and third party rights. The application states that all attachment licenses executed after September 10, 2001, will use the revised Standard Agreement included as part of Amendment No. 1 to the Master Attachment Agreement.

Amendment No. 2 to the Master Attachment Agreement expands upon Verizon Wireless' opportunities to use Edison's facilities and real property for attachment locations. It adds the Oxnard-Ventura-Simi Limited Partnership and GTE Mobilnet of Santa Barbara Limited Partnership as parties and permits Verizon Wireless to license Edison sites in Ventura, Santa Barbara, and San Luis Obispo Counties.

As of the date of the filing of this application, Edison and Verizon Wireless had entered into 14 Standard Agreements under the Master Attachment Agreement:

| Master Attachment Agreement | | | |
|------------------------------------|----------------------|----------------|----------------------|
| Site ID | Site Location | Site ID | Site Location |
| Lytle Creek | Rialto | Bloomfield | Cerritos |
| Almond | Fontana | Garvey | Monterey Park |
| East Yale | Irvine | Centurion | Los Angeles County |
| Frost | Chino Hills | Schaefer | Ontario |
| Peyton | Chino Hills | North Ranch | Thousand Oaks |
| Kingsdale | Torrance | Citrus | Rancho Cucamonga |
| Magnolia | Huntington Beach | Phillips Ranch | Pomona |

D. Discussion

The application identifies 25 licenses, which Edison now seeks to convert to leases. Ten are Stand-Alone Agreements, which license communications facility sites to Verizon Wireless; 1 is a license for a communications facility site executed under the master site agreement framework; and 14 are attachment location agreements executed under the attachment agreement framework.

Edison also seeks authority to use the Master Site Agreement as revised by its Amendment No. 1 (including the associated Standard Agreement), and the Master Attachment Agreement, as revised by its Amendments No. 1 and No. 2 (including the associated Standard Agreement), to process future, additional license/lease arrangements with Verizon Wireless. The application explains that:

To the extent that Verizon Wireless is permitted to use [Edison's] existing land, communication facilities, and buildings, it can avoid having to enter into separate time-consuming and expensive negotiations with other property owners for use of their land or buildings. Thus, Verizon Wireless will be able to develop its network more quickly. By facilitating the development and extension of Verizon Wireless's communication network, these lease arrangements benefit all Californians. Improvements to the State's telecommunications infrastructure enhances California's ability to develop, attract, and support businesses that require advanced telecommunications services. Importantly, these benefits accrue with a minimum of risk to [Edison] or its ratepayers. (Application, p. 23.)

The conversion of a license to a more durable lease requires Commission approval under § 851, since (1) GO 69-C does not apply to any arrangement that is not revocable within the terms prescribed in that general order and (2) § 851 requires a public utility to secure Commission authority before, among other things, leasing any property that is "necessary or useful in the performance of its duties to the public."

Prior Commission decisions address the license/lease of both telecommunications facility sites and of antenna and antenna equipment attachment locations. In D.00-07-010, the Commission authorized use by Edison and Pacific Bell Mobile Services of a similar master attachment agreement for the

license/lease of attachment locations for wireless antenna equipment. In D.02-12-023, D.02-12-024, and D.02-12-025, the Commission approved master agreements and associated standard agreements for the license and subsequent lease of excess space at Edison communication facility sites and of Edison antenna equipment locations to Nextel of California, Inc. (Nextel), Sprint PCS Assets, L.L.C. (Sprint), and AT&T Wireless Services of California, L.L.C. (AT&T Wireless).

Edison is not the only energy utility to ask for such approvals. In March 2002, in D.02-03-059, we reviewed and approved a license/lease arrangement between Pacific Gas and Electric Company (PG&E) and AT&T Wireless and there have been other such decisions. D.02-03-059 is important because it expressly notes the significant difference between the licenses PG&E issued to AT&T Wireless for attachment of removable antenna equipment and other licenses, the subject of a pair of 2001 decisions, that PG&E issued in connection with permanent construction to interconnect two electric generation plants with its system.⁵ While we approved the license/lease agreement between PG&E and AT&T Wireless, we did so with some reservations, stating:

The Applicants in this case negotiated a single “Master License/Lease Agreement” which covers both the license and lease of the property. Under this single agreement, the Applicants have agreed that, upon Commission approval of the §851 application, the provision of the agreement that renders the entire agreement revocable becomes inoperative, which has the

⁵ In those 2001 decisions, D.01-08-069 (*Calpine Delta*) and D.01-08-070 (*CalPeak*), we concluded that PG&E’s licenses exceeded the scope of authority granted by GO 69-C and we ordered PG&E to show cause why it should not be sanctioned for violation of § 851 and GO 69-C.

effect of transforming a fully revocable arrangement to a more durable lease arrangement.

Our reservations arise from the fact that, by virtue of the single agreement, it appears that the Applicants contemplated that they would eventually be seeking §851 approval. If parties anticipate that they will be entering into an agreement that will require such approval, they should file an application seeking such approval. When parties use the same agreement to convert a license to a lease, our concerns increase that the parties may be attempting to bootstrap upon a GO 69-C license to undermine our analysis of environmental and other factors in the §851 application.

* * *

We give notice that single agreements that provide for the conversion of a license to a lease may not be approved in the future. (D.02-03-059, p.7. slip op.)

Like PG&E's licenses to AT&T Wireless and Edison's licenses to Nextel, Sprint, and AT&T Wireless, this application concerns licenses to locate wireless infrastructure, cooperatively, on real property already owned or used by another utility or as a part of existing utility infrastructure. The wireless facilities can be removed readily, if necessary, and constitute a limited use of utility property under GO 69-C. The Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1, and the Master Attachment Agreement and Amendments No. 1 and No. 2, all contemplate a license-to-lease conversion and, in this respect, resemble the previously approved AT&T Wireless and Sprint licenses, as well.

Also like the previously approved AT&T Wireless and Sprint license/lease situations, those presented by this application do not appear to be structured to avoid the environmental review that may be required when, pursuant to § 851,

the Commission considers whether to authorize a lease of public utility property.⁶ As we discuss below, conversion of these licenses into leases does not occasion additional environmental review by the Commission.

We rely upon GO 159-A, which delegates authority to regulate the location and design of cellular facilities to local agencies, though the Commission retains oversight jurisdiction in cases of conflict with Commission goals and/or statewide interests.⁷ The framework established under each contractual arrangement (the Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1, and the Master Attachment Agreement and Amendments No. 1 and No. 2), requires Verizon Wireless to obtain all required governmental permits and approvals, which is consistent with GO 159-A. Further, as required by GO 159-A, Verizon Wireless must notify the Commission if the permits or approvals are granted or if none are necessary because the proposed construction is minor. We believe these conditions in the agreements provide that environmental review will occur at the appropriate time.

Edison states that the parties entered into the licenses with the intention to convert them into leases once Commission approval to do so had been obtained. Proceeding in this manner enabled Verizon Wireless “to secure locations for the

⁶ As discussed in *Calpine Delta* and *CalPeak*, *supra*, and reiterated in D.02-03-059, we reject the argument, raised in the proceedings underlying those decisions, that conversion of a license to a lease necessarily will have no effect on the environment and thus, requires no environmental review. The implication of such an argument is that parties may evade environmental review, which, under some fact patterns would be applicable to a lease, by first entering into a license and then applying to convert it to a lease.

⁷ See D.96-05-035 (66 CPUC2d 257).

development of its telecommunications network as quickly as possible,” (Application, pp. 11, 16.) Though we disfavor license/lease arrangements generally, since issuing D.02-03-059 we have approved other license-to-lease conversions for use of excess space at communications facility sites and for wireless equipment attachments.

Edison also states that the license/lease arrangements are examples of its “ongoing effort to pursue opportunities to generate additional revenues from utility assets, while also ensuring that its electrical ratepayers receive substantial benefits without risk.” (*Id.*, at p. 22.) Edison proposes to treat the revenues received from Verizon Wireless in accordance with the gross revenue sharing mechanism for other operating revenues, known as “OOR,” which the Commission adopted in D.99-09-070. Under the gross revenue sharing mechanism, all applicable gross revenues above the Commission-adopted annual threshold for OOR are to be split between shareholders and ratepayers according to the allocation rules approved in D.99-09-070. In D.02-12-023 and D.02-12-024, the Commission adopted the agreement between Edison and the Commission’s Office of Ratepayer Advocates (ORA) that revenues associated with the site agreements are to be shared between shareholders and ratepayers on a 70/30 basis, and revenues associated with the attachment agreements are to be shared between shareholders and ratepayers on a 90/10 basis.

In D.02-03-059, we determined that the PG&E and AT&T Wireless attachment agreements made “good sense from several perspectives” and we quoted D.00-07-010, our earlier decision approving the agreements between Edison and PBMS:

It is sensible for California’s energy utilities, with their extensive easements, rights-of-way, and cable facilities, to cooperate in this

manner with telecommunications utilities that are seeking to build an updated telecommunications network. Joint use of utility facilities has obvious economic and environmental benefits. The public interest is served when utility property is used for other productive purposes without interfering with the utility's operation or affecting service to utility customers. (D.02-03-059 at p. 9, slip op. quoting D.00-07-010, p. 6.)

We conclude that the communications facility site agreements and the attachment agreements at issue in this application likewise make productive joint use of available space, do not interfere with Edison's obligations to its electric utility customers and permit improved service to customers of Verizon Wireless. We are favorably influenced, also, by Edison's commitment to notify the Commission of changed circumstances in connection with these agreements. We adopt these notification requirements, with one modification, as a condition of our approval. Edison shall:

- Notify ORA and the Commission's Energy Division of all substantive extensions or terminations of these agreements.
- Notify ORA and the Energy Division assistant directors for energy, in writing, of any substantive changes to plant in service resulting from implementation of these agreements, within 60 days of the change.
- Notify ORA and the Energy Division assistant directors for energy, in writing, if any right-of-way which is the subject of these agreements ceases to be used and useful for the provision of electric service or if there are any substantive changes in the right-of-way segments which are the subject of these agreements, within 30 days of any such event.

However, we do not accept Edison's proposal to notify ORA and the Energy Division of substantive amendments to the agreements. Instead, consistent with our direction to PG&E in D.02-03-059, Edison shall file an application under § 851 for approval of any such proposed changes to any of the

agreements, whether the Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1 (including the associated Standard Agreement), or the Master Attachment Agreement and Amendments No. 1 and No. 2 (including the associated Standard Agreement). Our approval of the 25 identified leases, for the lease of additional communications facility sites under the Master Site Agreement as modified by Amendment No. 1, and for the lease of additional antenna equipment attachment locations under the Master Attachment Agreement as modified by Amendment No. 1 and No. 2, is based upon the terms in the documents submitted for our review. We do not think it prudent, or consistent with our responsibilities under § 851, to give Edison advance authority to negotiate substantive amendments to these agreements.

E. Request for Confidentiality

By motion filed concurrently with the application on October 18, 2002, Edison requests leave to file under seal certain information contained in the agreements, which it states is confidential and commercially sensitive for Verizon Wireless. The information includes: the terms of the compensation between Edison and Verizon Wireless; certain terms governing the length of the leases and renewal periods; and the monetary amounts for liquidated damages.⁸

⁸ By letter dated October 28, 2003, Edison acknowledges a mismatch between the contents of the application (at page at 8) and the motion and states that Verizon Wireless joins Edison in expressly waiving any claim of confidentiality in the terms publicly disclosed in the application. The following terms have been publicly disclosed: (1) pursuant to the Stand-Alone Site Agreements annual rent is adjusted every five years throughout the term of the lease based on the total increase or decrease of the Consumer Price Index during the prior five-year period and (2) Stand-Alone Site Agreement #9 permits the renewal of that agreement for additional terms of five years each.

Edison filed narrowly redacted versions of all of the agreements as Exhibits 1-13; Edison tendered the full text of the agreements under seal with its motion.

As Edison's motion argues, commercially sensitive information regarding the financial terms and conditions of the lease, if revealed to competing carriers, could disadvantage Verizon Wireless *vis a vis* such carriers. Public disclosure of the information also could disadvantage Edison in negotiations with other carriers over similar agreements. We have granted similar requests for confidential treatment in the past and will do so here, as further detailed in the ordering paragraphs of today's decision.

F. Categorization

In Resolution ALJ 176-3099 dated November 7, 2002, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. Based on the record in this matter, public hearing is not necessary, and we affirm the preliminary determinations made in Resolution ALJ 176-3099.

G. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner. The Administrative Law Judge (ALJ) originally assigned to this proceeding was Myra J. Prestidge. The proceeding was subsequently reassigned to ALJ Karl J. Bemesderfer and now is assigned to ALJ Jean Vieth.

H. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure.

Findings of Fact

1. The use by Verizon Wireless of Edison's facilities or real property pursuant to the 25 licenses is neither permanent nor significant because it involves excess space in existing communications facility sites or cellular antennas and antenna equipment that can be removed easily.

2. The 25 licenses entered into between Edison and Verizon Wireless are structured to convert from revocable licenses to a leases if Commission approval is granted.

3. The Stand-Alone Site Agreements, the Master Site Agreement (including its amendment) and the Master Attachment Agreement (including its amendments) incorporate the environmental review and notification requirements of GO 159-A.

4. The communications facility site agreements and attachment agreements which are the subject of this application make productive utility use of available space, allow improved service to customers of Verizon Wireless, and do not interfere with utility service to Edison's customers.

5. The proposed 90%/10% shareholder/ratepayer revenue sharing allocation of the rents received under the attachment agreements and the proposed 70%/30% shareholder/ratepayer revenue sharing allocation of the rents received under the communications facility site agreements comply with Commission precedent for these categories of Edison's OOR (above the adopted annual threshold).

6. Edison has made appropriate, narrow redactions to the versions of Exhibits 1 through 13 filed publicly as part of A.02-10-029.

7. Public disclosure of the pricing and other specific terms in Exhibits 1 through 13 of A.02-10-029 would disadvantage Verizon Wireless and Edison in the marketplace.

Conclusions of Law

1. No public hearing is necessary.
2. The use of Edison facilities or real property by Verizon Wireless under the agreements at issue in this application is a permissible “limited use” under GO 69-C.
3. No further environmental review of this application is required by the Commission.
4. The 25 proposed leases are in the public interest and should be approved, subject to the notifications that Edison proposes and upon the condition that Edison file under Section 851 for Commission approval of any substantive amendments to the stand-alone agreements, or to the master site and attachment agreements (including existing amendments to them) and the standard agreements associated with either of them.
5. Edison’s request for authority to enter into additional future leases with Verizon Wireless under the Master Site Agreement as modified by Amendment No. 1 or under the Master Attachment Agreement as modified by Amendment No. 1 and No. 2, is in the public interest and should be approved, subject to the notifications that Edison proposes and upon the condition that Edison file under Section 851 for Commission approval of any substantive amendments to either master agreement (including existing amendments to them) or the standard agreements associated with them.
6. Edison’s request to file under seal certain information in Exhibits 1 and 2 to the applications should be granted for two years.

7. To promote certainty in the parties' business dealings, today's decision should be effective immediately.

O R D E R**IT IS ORDERED** that:

1. Application (A.) 02-10-029 is approved to:
 - a. Convert to leases the 25 separate communications facility site licenses and antenna and antenna equipment attachment licenses enumerated in the body of this decision;
 - b. Authorize Southern California Edison Company (Edison) to enter into additional leases for communications facility sites and antenna and antenna equipment locations with Los Angeles SMSA Limited Partnership, Oxnard-Ventura-Simi Limited Partnership and GTE Mobilnet of Santa Barbara Limited Partnership, individually and collectively doing business as Verizon Wireless (Verizon Wireless), pursuant to the Master Site Agreement and Amendment No. 1, and the Master Attachment Agreement and Amendments No. 1 and No. 2 to the Master Attachment Agreement. Reference to each master agreement, and its amendments, necessarily includes the associated Standard Agreement.
2. The authority granted in Ordering Paragraph 1 is conditioned upon the following notifications by Edison:
 - a. To the Office of Ratepayer Advocates (ORA) and the Commission's Energy Division of all extensions or terminations of leases executed pursuant to the Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1, the Master Attachment Agreement, and Amendments No. 1 and No. 2 to the Master Attachment Agreement.
 - b. To ORA and the Energy Division assistant directors for energy, in writing, of any substantive changes to plant in service resulting from implementation of the leases, within 60 days of the change.
 - c. To ORA and the Energy Division assistant directors for energy, in writing, if any right-of-way, which is the subject of these leases, ceases to be used and useful for the provision of electric service or if there are any substantive changes in the

right-of-way segments, which are the subject of these licenses, within 30 days of any such event.

3. Edison shall file an application under § 851 for approval of any substantive amendment of the Stand-Alone Site Agreements, the Master Site Agreement and Amendment No. 1, the Master Attachment Agreement, and Amendments No. 1 and No. 2 to the Master Attachment Agreement.

4. Edison's October 18, 2002, motion for leave to file under seal certain information in Exhibits 1 through 13 to A.02-10-029, a copy of which was submitted under seal with the motion, is granted, in part and denied in part, as further provided in Ordering Paragraph 5. The following terms, which are disclosed in the application at pages 8 and in Exhibit 9, page 4, section 3A, have been publicly disclosed:

- a. Pursuant to the Stand-Alone Site Agreements, the annual rent for each license/lease is adjusted every five years throughout the term of the lease based on the total increase or decrease of the Consumer Price Index during the prior five-year period, and
- b. Pursuant to Stand-Alone Site Agreement #9, the license/lease may be renewed for additional terms of five years.

5. The following provisions shall apply to the protective order granted by Ordering Paragraph 4:

- a. The information shall be filed under seal for two years from the effective date of this decision. During that period, the information shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the Assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.
- b. If the Edison believes that additional protection is needed beyond that ordered in Ordering Paragraph 4(a), it may file a

motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than one month before the expiration date.

6. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A**Page 1**

| Exhibit No. | Reference Name | Title of Agreement |
|--------------------|-------------------------------|--|
| 1 | Stand-Alone Site Agreement #1 | Real Property License/Lease Agreement |
| 2 | Stand-Alone Site Agreement #2 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement III |
| 3 | Stand-Alone Site Agreement #3 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement IV |
| 4 | Stand-Alone Site Agreement #4 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement IV |
| 5 | Stand-Alone Site Agreement #5 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement V |
| 6 | Stand-Alone Site Agreement #6 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement VII |
| 7 | Stand-Alone Site Agreement #7 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement 8 |
| 8 | Stand-Alone Site Agreement #8 | Southern California Edison Company and Los Angeles SMSA Limited Partnership, Communication Facility Site License/Lease Agreement XIII |
| 9 | Stand-Alone Site Agreement #9 | Southern California Edison Company and Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless, By Airtouch Cellular, Its Managing General Partner, Communication Facility Site License/Lease Agreement No. 18 |

ATTACHMENT A**Page 2**

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| 10 | Stand-Alone Site Agreement #10 | Southern California Edison Company and Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless, By Airtouch Cellular, Its Managing General Partner, Communication Facility Site License/Lease Agreement No. 18 |
| 11 | Master Site Agreement and Amendment No. 1 | Equipment Facilities Agreement Between Southern California Edison Company and Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless |
| 12 | Master Attachment Agreement | Master Agreement, Southern California Edison Company and Los Angeles SMSA Limited Partnership, Personal Communication Services & Cellular Antenna Equipment Location License/Lease Agreement |
| 13 | Amendment 1 and Amendment 2 to the Master Attachment Agreement | Amendment No. 1 to the Master Agreement Between Southern California Edison Company and Los Angeles SMSA Limited Partnership, DBA Verizon Wireless; Amendment No. 2 to the Master Agreement Between Southern California Edison Company and Los Angeles SMSA Limited Partnership, DBA Verizon Wireless |

(END OF ATTACHMENT A)